

1 HONORABLE RICHARD A. JONES
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11 UNITED STATES DISTRICT COURT
12 WESTERN DISTRICT OF WASHINGTON
13 AT SEATTLE
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16 RICHARD J BAKER,
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18 Plaintiff,

19 v.
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21 MICROSOFT CORPORATION, et
22 al.,
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24 Defendants.
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26 CASE NO. C16-396 RAJ
27 ORDER

28 This matter comes before the Court on Plaintiff's leave to file a motion for
29 reconsideration outside the deadline. Dkt. # 136. Defendants oppose the motion. Dkt. #
30 139.

31 Plaintiff offers no justification for why he could not have discovered the allegedly
32 "new material fact evidence" when the parties were arguing the motion for summary
33 judgment. His motion suggests he only went searching for the new evidence once the
34 Court rejected his arguments on summary judgment. Dkt. # 136 at p. 2. Furthermore, on
35 February 1, 2017, Plaintiff filed his notice of appeal to the Ninth Circuit. Dkt. # 140.
36 Plaintiff then filed his motion for reconsideration on February 9, 2017. Dkt. # 142.
37 However, by filing an appeal with the Ninth Circuit prior to filing his motion for
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1 reconsideration, Plaintiff divested the Court of jurisdiction “over those aspects of the case
2 involved in the appeal.” *Stein v. Wood*, 127 F.3d 1187, 1189 (9th Cir. 1997).

3 Accordingly, the Court **DENIES** Plaintiff’s motion. Dkt. # 136. This Order
4 operates to terminate his pending motion for reconsideration and motion for leave to file
5 additional evidence. Dkt. ## 142, 146.

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7 Dated this 16th day of March, 2017.

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11 The Honorable Richard A. Jones
12 United States District Judge
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